(1)

[redacted]

FILED

03 796 OCT 18 2003

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

ARNOLD EISEN,

Petitioner,

vs.

MR. GEORGE W. BUSH, et al.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

ARNOLD EISEN
34 S. 3rd Street, Apt #3
PO Box # 83
Quakertown, PA 18951
(215) 536 – 7283

22 pp

QUESTIONS PRESENTED

To be or not to be, ***free and equal citizens living under the rule of law***, that is the question.

Are we truly a free people living under the ***rule of law*** and does that **Rule of Law** apply equally to every citizen?

Does a common citizen have the same Constitutional Rights as a more politically privileged citizen?

Mr. George W. Bush, currently the President of the United States, lead this Nation into war against another sovereign nation. He did so under the pretext of it being our **obligation** as a free people living under the rule of law to destroy a dictatorship that denied freedom to its people and install a democratic government. He stated countless times that it is the duty of the American people to 'free' the people of this other nation and teach them to live under ***the rule of law***.

To this end, he has unilaterally compelled the citizens of the United States to devote their resources, children, blood, lives, and liberties for this generation and many to come.

He has forced the American people to sacrifice the prosperity of this Great Nation and has chosen to continue to make war at the expense of our own Homeland Security.

He has stated publicly that The United States does NOT have sufficient financial resources to devote to homeland security. The protection of our own citizens and our own lands from attack both from outside the Country and from within our own borders is NOT equal in priority to establishing a rule of law in a foreign land, at least according to Mr. Bush.

He has caused a gross inadequacy of self-defenses against the very enemy he claimed we must do battle with, that being international and domestic terrorism.

By his actions he has aided the enemy and brought this threat upon his own countrymen.

Will the Supreme Court of the United States turn a blind eye and protect his political privilege to hide behind political alliances and arrange judicial 'blockades' against his accusers or will it choose to defend the Rights of the common citizen and demand that the President follow the same ***rule of law*** he imposes on his own nation and the world?

The U.S. Constitution does not state that the levying of Charges of Treason against an elected official be made only by another elected official. Article III Section 3.

The U.S. Constitution does state that an elected official may be charged with treason "on the testimony of two (2) Witnesses to the same overt act or on Confession in open Court".

Your Petitioner, a free and natural born citizen of the United States of America chooses to exercise his Constitutional Right to be one (1) of those two Witnesses.

Will the Supreme Court of the United States uphold your petitioners' right to that choice?

To be or not to be, ***free and equal citizens living under the rule of law***, that is the question!

LIST OF PARTIES

All parties DO NOT appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. Mr. George W. Bush, (currently) President of the United States of America
   The White House
   1600 Pennsylvania Avenue
   Washington, D.C.

2. Honorable John Ashcroft (currently) Attorney General of the United States of America
   US Department of Justice
   950 Pennsylvania Avenue, N.W.
   Washington, D.C. 20530 - 0001

3. Honorable Timothy J. Savage, District Judge
   United States Federal Court for the Eastern District of Pennsylvania
   U.S. Courthouse
   Philadelphia, PA 19106 – 1797

4. Honorable Samuel A. Alito, Circuit Judge
   US Court of Appeals for the 3rd Circuit
   21400 U.S. Court House
   601 Market Street
   Philadelphia, PA 19106

5. Honorable Jane R. Roth, Circuit Judge
U.S. Court of Appeals for the 3rd Circuit
21400 U.S. Court House
601 Market Street
Philadelphia, PA 19106

6. Honorable Marjorie O. Rendell, Circuit Judge
U.S. Court of Appeals for the 3rd Circuit
21400 U.S. Court House
601 Market Street
Philadelphia, PA 19106

7. Mr. Patrick L. Meehan, United States Attorney for the Eastern District of Pennsylvania
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106 – 4476

8. Ms. Virginia A. Gibson, Chief Civil Division, Asst. U.S. Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106 – 4476

9. Ms. Barbara Rowland, Assistant U.S. Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106 - 4476

TABLE OF CONTENTS

QUESTIONS PRESENTED i

LIST OF PARTIES iii

OPINIONS BELOW.....1

JURISDICTION.....1

STATEMENT OF CASE 2

REASONS FOR GRANTING THE WRIT 6

RELIEF SOUGHT 8

CONCLUSION 9

INDEX TO APPENDICES

APPENDIX A - Opinion of U.S. Court of Appeals for the Third Circuit and Judgment thereof.....A-1

Order dated December 11, 2002 of the United States District Court for the Eastern District of Pennsylvania.....A-6

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Third Circuit appears at Appendix A, pp. A-1 – A-5 to the petition and is *unpublished.*

JURISDICTION

The date on which the United States court of appeals decided my case was September 18, 2000.

No petition for rehearing was filed in my case.

The jurisdiction of the Court is invoked under **28 U.S.C. 1254 (1)**

STATEMENT OF CASE

On December 2, 2002 your petitioner, *pro se*, filed a complaint **(IFP)** in Federal Court for the Eastern District of Pennsylvania against Mr. George W. Bush (President of the United States) and Mr. John Ashcroft (Attorney General of the United States) for Treason and other High Crimes against the United States of America and Conspiracy against the Constitution of the United States and the People of the United States.
D.C File No. 02-8946

On December 11, 2002 the US District Court **Granted the Motion to proceed with the Action IFP.** The Court simultaneously dismissed the Complaint as being legally *frivolous.*

During the period between December 2 and December 11, Defendants FAILED to file Notice of Appearance with the Court and cause it to be served upon the Plaintiff, your Petitioner, as **required** under the Federal Rules of Civil Procedure for the Eastern District of Pennsylvania.

Defendants FAILED to file a **requirement** for a Bill of Particulars to be served upon them, again as set forth in the *Rules*.

Defendants FAILED to file a request to 'meet and discuss' the issues again as set forth in the *Rules* as a duty and responsibility of all parties in any action to negotiate in good faith to resolve differences.

Defendants FAILED to file a motion for **Alternative Dispute Resolution** (ADR) procedures also provided for under the *Rules* and an option open to Defendants.

Defendants FAILED to abide by or perform under ANY of the Rules of Civil Procedure for the Eastern District of Pennsylvania.

Having received no response of any sort whatsoever on behalf of Defendants nor any Motions on the part of any party named therein, your petitioner was left without option for a summary resolution to the matters and thus timely filed an **Appeal (IFP) in the US Court of Appeals for the Third Circuit under the basis of the dismissal being absence of Motions and the Defendants lack of compliance with the Federal Rules of Civil Procedure for the Eastern District of Pennsylvania. No. 02-4507**

The original complaint was amended and attached thereto citing The Honorable Timothy Savage as an additional Defendant because of his unilateral disregard for the very Rules he is sworn to uphold and his arbitrary dismissal of the case without regard for the Rights of the Plaintiff in what seems to be a political posturing to deny a citizen equal justice under the Law.

In addition to the Relief sought in the Original complaint, your petitioner sought to ask the Court of Appeals to Charge the Defendants with the costs of the Appeal as a **penalty** for their **failure to comply** with the Rules in the first place and that these costs should **NOT be bourn by the taxpayers and citizens of Eastern District of Pennsylvania**.

Around January 27, 2003 your petitioner received Notice of Appearance on behalf of Defendants by Barbara Rowland, Assistant United States Attorney and endorsed by Patrick L. Meehan, United States Attorney for the Eastern District of Pennsylvania.

February 3, 2003 your petitioner timely filed with the Court of Appeals an OBJECTION TO THE APPOINTMENT OF COUNSEL being a representative of the US Attorneys' Office under a basis that an appointment of a member of the US Attorneys' Office is

a. a gross misuse of Federal resources against a private citizen, a ***declared pauper*** and,

b. a denial of the Constitutional Rights of the Appellant, your petitioner to Equal Justice under the Law. The Constitution does NOT permit any citizen to allocate Federal funds to pay the costs of that citizens' defense in private matters.

On or around February 10, 2003 your petitioner received a copy of a Motion for Summary Affirmance of Appellees and a stay of the Briefing Schedules filed on their behalf by Virginia Gibson, Chief of the Civil Division of the U.S. Attorneys' Office, Barbara Rowland, Assistant U.S. Attorney, and again endorsed by Patrick Meehan, U.S. Attorney for the Eastern District of Pennsylvania.

On February 11, 2003 your petitioner timely filed with the Court of Appeals, an Answer to the Motion for Summary Affirmance with a requested continuation of any said briefing schedules and a **SECOND OBJECTION** to the appointment of Counsel being a representative of the U.S. Attorneys' Office under the same basis as the first Objection..

All Parties listed therein were duly served with all filings as stated under the Federal Rules of Civil Procedure.

On September 29, 2003 your petitioner received Notice of Judgment and the Opinion of the U.S. Court of Appeals rendered September 18, 2003. It stated that the Motion by the Appellant and Objection to the Appointment of Counsel being a representative of the U.S. Attorney's Office was dismissed and the Appeal itself was also dismissed under the presumption of the case being termed again *legally frivolous*.

This Petition is an APPEAL FROM THAT JUDGMENT.

REASONS FOR GRANTING THE PETITION

The U.S Court of Appeals for the Third Circuit FAILED to address the issues set forth as the basis for the Appeal.

a. The Court FAILED to address the primary basis of the Appeal that being the Defendants Non-compliance with the Federal Rules of Civil Procedure.

b. The Court FAILED to address the issue of the summary dismissal being made unilaterally by the Court ABSENCE OF MOTION by any Party named therein.

The U.S. Court of Appeals denied your petitioner the Right of Equal Justice Under the Law by dismissing the Objection to the appointment of Counsel being a representative of the U.S. Attorneys' Office.

a. The Court FAILED to Rule on the Objection and give adequate time for both Parties to respond to that ruling.

b. The Court FAILED to ensure the Rights of the Appellant were protected from Political Compacts and Affiliations by allowing the Defendants to be represented by members of the Justice Department in which one of the Defendants is in fact the Chief Officer of that Department.

The U.S. Court of Appeals FAILED to uphold the Constitutional Rights of the Appellant by not requiring all parties in the Action obey and follow the **Rule of Law**.

Your Petitioner Humbly Presents to This Honorable Court that the actions of both the United States District Court for the Eastern District of Pennsylvania and the U.S. Court of Appeals for the Third Judicial Circuit and all the Judges therein along with the Office of The United States Attorney for the Eastern District of Pennsylvania demonstrated a clear and obvious attempt to institute a 'judicial blockade' of a Citizens' Constitutional Right to Petition the Government for a redress of grievances as outlined in the Constitution of the United States Article III Sections 2 & 3, and re-emphasized in the 1st Amendment

RELIEF SOUGHT UNDER THIS APPEAL

Your Petitioner respectfully requests This Honorable Court ***'set aside'*** the judgment by the U.S. Court of Appeals for the Third Judicial Circuit dismissing the Appeal.

Your Petitioner respectfully requests This Honorable Court ***"overturn"*** the dismissal of the Appellants' Motion to disqualify the appointment of Counsel being a representative of the U.S. Attorneys' Office and ***"uphold"*** the Motion by Appellant to disqualify that appointment.

"That Appointment also represents an unfair use of tax dollars that are contributed by the petitioner to the treasury and in fact forces the petitioner to pay some of the costs of the representation by the US Attorneys' Office against himself. A citizen should NOT be compelled to pay the costs of another citizens defense through taxation under the color of the law."

Finally, your Petitioner respectfully requests This Honorable Court ***"return"*** this case and all **subsequent amendments** (*which will add to the list of original Respondents the names of all parties indicated on the list of Parties within this petition*) to the original complaint to the District Court for continued Judicial Process under the Federal Rules of Civil Procedure for the Eastern District of Pennsylvania.

Your petitioner offers a prayer for relief.

CONCLUSION

The petition before This Honorable Court for a writ of certiorari should be granted.

Respectfully submitted,

_____

Arnold Eisen – petitioner
34 S. 3rd Street, Apt. #3
PO Box #83
Quakertown, PA 18951
(215) 536-7283

Date: _____

DPS – 223 Unreported – Not Precedential

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 02-4507

ARNOLD EISEN,

Appellant

v.

GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES OF AMERICA; JOHN ASHCROFT, ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
(D.C. Civ. No. 02-cv-8946)
District Judge: Honorable Timothy J. Savage

Submitted For Possible Dismissal Under 28 U.S.C. § 1915 (e)(2)(B) or Summary Action Under Third Circuit LAR 27.4 and I.O.P. 10.6
May 30, 2003

Before: ALITO, ROTH AND RENDELL, CIRCUIT JUDGES

(Filed September 18, 2003)

OPINION

PER CURIAM

Appellant, Arnold Eisen, appeals the District Court's order dismissing his complaint as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B). On December 11, 2002, Eisen filed his pro se complaint pursuant to 42 U.S.C. § 1983 after filing a motion for leave to proceed in forma pauperis (IFP). Within his two page submission, Eisen complained of "treason and other high crimes" by the defendants, President Bush and Attorney General Ashcroft, against the United States of America. Complaint at 1. In further explanation, Eisen alleged that "they did conspire together publicly and privately to subvert the purpose and intention of the Constitution of the United States of America ... to further their own, private and non-legislative goals, gains, and ambitions." Id. For relief, Eisen asked that "the resources of the People of the United States of America be returned in full to the Treasury" as well as the "restoration of the 'integrity' of the Constitution of [t]he United States of America ... and punishment of the defendants." Complaint at 2. On that same day, the District Court granted Eisen's motion to proceed IFP and dismissed the complaint as legally frivolous. Eisen timely filed his notice of appeal.

In this Court, Eisen filed a Motion of "Objection to Appointment of Counsel," which we construed as a motion by appellant to "Strike Appearance of Office of United States Attorney on behalf of Appellees." Appellees also filed a motion for summary affirmation of the District Court's decision as well as a request to stay the briefing schedule. Eisen filed a response in opposition to appellee's motion. We granted the motion to stay the briefing schedule and now before us have the motion for summary affirmation as well as appellant's objection to the entry of appearance of appellee's counsel.

We have jurisdiction pursuant to 28 U.S.C. § 1291. Eisen has been granted leave to proceed in forma pauperis on appeal. After careful review of the record, we conclude that this appeal must be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) as frivolous given that it lacks an arguable basis in law or fact.

Under § 1915(e)(2)(B), a court must dismiss a case "at any time" if it determines an action or appeal (i) is frivolous or malicious, (ii) fails to state a claim upon which relief may be granted, or (iii) seeks monetary damages from a defendant with immunity. An action or appeal can be frivolous for either legal or factual reasons. Neitzke v. Williams, 490 U.S. 319, 325 (1989). A legally frivolous action is one "based on an indisputably meritless legal theory." Id. at 327.

To state a viable § 1983 claim, a plaintiff must allege facts showing a deprivation of a constitutional right, privilege, or immunity by a person acting under color or state law. Daniels v. Williams, 474 U.S. 327, 330 (1986). Eisen argues that President Bush and Attorney General Ashcroft have committed treason and other high crimes. However, he does not offer any factual allegations nor does he provide any legal basis for his complaint. Eisen's complaint is, thus, utterly void of any allegations to support a cognizable claim under § 1983.

Because we determine that the appeal presents no arguable legal issues, we will dismiss the appeal pursuant to 28 U.S.C. § 1915(e)(2)(B). Neitzke v. Williams, 490 U.S. 319 (1989). Eisen's motion of Objection to Appointment of Counsel is likewise denied. Appellees' motion for summary affirmance is denied as moot.

DPS – 223

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 02-4507

ARNOLD EISEN,

Appellant

v.

GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES OF AMERICA; JOHN ASHCROFT, ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
(D.C. Civ. No. 02-cv-8946)
District Judge: Honorable Timothy J. Savage

Summary Action Under Third Circuit LAR 27.4 and I.O.P. 10.6
May 30, 2003

Before: ALITO, ROTH AND RENDELL, CIRCUIT JUDGES

JUDGMENT

This cause came to be heard on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted for possible dismissal under 28 U.S.C. § 1915(e)(2)(b) or summary action under Third Circuit LAR 27.4 and I.O.P. 10.6. On consideration whereof, it is now here

ORDERED AND ADJUDGED by this Court that the appeal is dismissed under 28 U.S.C. § 1915(e)(2)(B). All of the above in accordance with the opinion of this Court.

ATTEST:
/s/ Marcia M. Waldron
Clerk

DATED: September 18, 2003

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ARNOLD EISEN	:	CIVIL ACTION
	:	
VS.	:	
	:	
MR. GEORGE W. BUSH,	:	
President of the United States	:	
of America, et al	:	NO. 02-8946

ORDER

AND NOW, this 11th day of December, 2002, it is ORDERED that plaintiff's motion for leave to proceed in forma pauperis is GRANTED pursuant to 28 U.S.C. § 1915 and plaintiff's complaint is DISMISSED AS LEGALLY FRIVOLOUS pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).

/s/ Timothy J. Savage, J.
TIMOTHY J. SAVAGE, J.